

REMARKS

Claims 3-6, and 9 are pending in the application. Claims 1, 2 and 11-18 have been cancelled herein, and claims 4, 5, 6 and 9 have been amended. Applicants wish to make clear that the structure of Formula I and Formula II are to be considered deleted from claims 5 and 6. No new matter is introduced hereby.

Rejections Under 35 U.S.C. § 112, First and Second Paragraphs

Claims 1-6, 9 and 11-18 have been rejected as indefinite and not enabled. Applicant respectfully traverses the rejections, as set forth below.

In particular, claims have been rejected for indefiniteness of the definitions of substituent groups X, R₅-R₉, and for the term "aliphatic hydrocarbon group." Further claim 15 has been rejected for reciting a temperature range of "from about 0-140°C." The claims have also been rejected for lack of enablement. These claims have been either cancelled or made dependent from independent claim 3, rendering the rejection moot.

In the Response to Argument section of the Action, Examiner acknowledges the amendment of claims 5, 6 and 9 from generic to subgeneric form. In light of the utility shown for compounds of claim 3, Applicants submit that the rejections are mooted thereby.

Rejections Under 35 U.S.C. §103 (a) Over Itho et al. (EP 108 986 A1), in view of Sagara et al. (J. Med. Chem., 2002, 45, 984-987), Takeuchi et al. (EP 801 067 B1), and King (Med. Chem. Principle and Practice, 1994, 206-209)

Claims 1-6 and 9 have been rejected as obvious over Itho et al., in view of Sagara et al., Takeuchi et al., or King (Applicants note that page 209 of the cited reference has apparently not been provided by the Office, but choose at this time to address the rejection on the basis of compounds disclosed in the pages 206-208, particularly 208). Applicants respectfully traverse the rejections as set forth below.

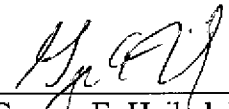
Itho et al., Sagara et al., Takeuchi et al. and King, either individually or in any combination, do not render obvious the present invention. None of the references disclose or anywhere suggest the compounds of the currently pending claims. Examiners' addition of the disclosure of King to the obviousness argument does not remedy the deficiencies therein. Given the generalities of the teachings of King, there is no reason to choose a modification of any of the subject matter of Itho et al., Sagara et al., or Takeuchi et al. in the way suggested by the Examiner. Clearly hindsight is being improperly applied in this analysis.

In view of the above, the Examiner has not established a *prima facie* case of obviousness. The cited references do not show any motivation to modify the references in such a way as to arrive at the presently claimed compounds. Accordingly, obviousness has not been shown, and the present claims should be allowed. The Examiner is respectfully requested to reconsider and withdraw the present rejections under 35 U.S.C. §103(a).

CONCLUSION

Applicants respectfully submit that the pending claims are allowable, and request a Notice of Allowance at this time. Authorization is hereby given to charge any fees deemed to be due in connection with this Response to Deposit Account No. 50-0912.

Respectfully submitted,
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